

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)	
)	Order No. MWR-04-21
)	
KEVIN L. McCLURE , Director,)	
President, and Chief Executive Officer)	Date: October 20, 2004
)	
Lyons FSA)	
Lyons, Kansas)	
OTS Docket No. 00179)	
)	

CONSENT ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, KEVIN L. McCLURE, a Director, Chief Executive Officer, and President of Lyons FSA, Lyons, Kansas (Respondent) has executed a Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalty (Stipulation); and

WHEREAS, Respondent, by his execution of the Stipulation, has consented and agreed to the issuance of this Consent Order of Assessment of Civil Money Penalty (Order) by the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1818(i).


NOW THEREFORE, IT IS ORDERED that:

1. Within twenty (20) calendar days of the date of this Order, Respondent shall pay to OTS the sum of Three Thousand, Five Hundred Dollars (\$3,500), by tendering a certified check or bank draft made payable to the order of the Treasurer of the United States. The check or bank draft and a copy of the Order shall be delivered, together with a cover letter referencing Lyons FSA, Lyons, Kansas, to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552. A copy of the check or bank draft

and the cover letter shall be provided by U.S. Mail to Gary A. Scott, Assistant Director, at 225 East John Carpenter Freeway, Suite 500, Irving, Texas 75062-2326.

2. The Stipulation is made a part hereof and is incorporated herein by this reference.
3. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and the Order shall remain in effect until terminated, modified or suspended in writing by OTS, acting through its Director, Regional Director, or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By: 
Frederick R. Casteel
Regional Director
Midwest Region

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**STIPULATION AND CONSENT TO THE ISSUANCE OF
AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY**

WHEREAS, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, has informed **KEVIN L. McCLURE** (Respondent), a Director, President, and Chief Executive Officer of Lyons FSA, Lyons, Kansas (OTS Docket No. 00179), that OTS is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against him pursuant to 12 U.S.C. § 1818(i);¹ and

WHEREAS, Respondent desires to cooperate with OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist, or the Findings of Fact or opinions and conclusions of OTS, except as to Jurisdiction, paragraph 1, below, which is admitted, Respondent hereby stipulates and agrees to the following:

1. **Jurisdiction.**

- A. Lyons FSA is a savings association within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, it is an insured depository institution as that term is defined in 12 U.S.C. § 1813(c);

¹ All references, in this Stipulation and related Order, to the United States Code (U.S.C.), are as amended, unless otherwise indicated.
Kevin L. McClure
Stipulation and Consent to CMP

- B. Respondent is the Chief Executive Officer, President, and Director of Lyons FSA, and is an institution-affiliated party as that term is defined in 12 U.S.C. § 1813(u); and
- C. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” to maintain an administrative civil money penalty assessment proceeding against such a savings association or its institution-affiliated parties. Therefore, Respondent is subject to the jurisdiction of OTS to initiate and maintain a civil money penalty assessment proceeding against him pursuant to 12 U.S.C. § 1818(i). The Director of OTS has delegated to the Regional Director of the Midwest Region of OTS or his designee (Regional Director) the authority to issue orders of assessment of civil money penalty where the individual has consented to the issuance of the order.

2. **OTS Findings of Fact.**

The OTS finds that:

- A. Lyons FSA, Lyons, Kansas (Lyons FSA) failed to conduct independent testing as required by 12 C.F.R. § 563.177(c)(2) for compliance with the Currency and Foreign Transactions Reporting Act, as amended by the USA Patriot Act and other laws (the Bank Secrecy Act or BSA), 31 U.S.C. §§ 5311 *et seq.*, and the regulations promulgated thereunder by the U.S. Department of the Treasury, 31 C.F.R. §§ 103.11 *et seq.*, and OTS’s related BSA regulation promulgated by OTS, 12 C.F.R. § 563.177 (collectively referred to as BSA Laws and Regulations). Respondent failed to take the necessary action to ensure independent testing of Lyons FSA’s compliance with BSA Laws and Regulations, as he promised to OTS examiners. Respondent’s failure to take action aided and abetted Lyons FSA in its violation of 12 C.F.R. § 563.177(c)(2).
- B. At the beginning of the March 31, 2004 examination, Respondent also could not provide to OTS a copy of the written BSA policy that was adopted by the Board of Directors of Lyons FSA. This was a violation of 12 C.F.R. § 563.170(c), which requires savings associations to maintain records required by applicable regulations. As Chief Executive



Officer and President of Lyons FSA, Respondent was responsible for ensuring that Lyons FSA complied with applicable regulations, including the OTS's recordkeeping requirements.

3. **Consent.**

Respondent consents to the issuance by OTS of the accompanying Consent Order of Assessment of Civil Money Penalty (Order). Respondent further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. **Finality.**

The Order is issued under 12 U.S.C. § 1818(i). Upon its issuance by OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

5. **Waivers.**

Respondent waives the following:

- A. The right to be served with a written notice of assessment of civil money penalty against him as provided by 12 U.S.C. § 1818(i);
- B. The right to an administrative hearing of OTS's charges against him as provided by 12 U.S.C. § 1818(i);
- C. The right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order;
- D. Any and all claims against OTS, including its employees and agents, and any other governmental entity for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412; and

E. The right to assert this proceeding, his consent to issuance of the Order, the issuance of the Order, the payment of any monies or the provision of any other financial relief as contemplated by the Order as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

6. Indemnification.

Respondent represents that he has not received, directly or indirectly, any sums from Lyons FSA for the purpose of indemnifying or reimbursing him for any expenses incurred by him in connection with the issuance of the Order. Respondent shall neither cause nor permit Lyons FSA (or any successor institution, subsidiary or service corporation thereof) to incur, directly or indirectly, any expense for any legal or other professional services rendered to Respondent relative to the negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from Lyons FSA (or any successor institution, subsidiary or service corporation thereof) with respect to such expenses. In the event that any such payments are received by or on behalf of Respondent in connection with this action, Respondent agrees promptly to notify OTS of the receipt of such payments and to return such payments without delay to Lyons FSA (or the successor institution, subsidiary or service corporation thereof).

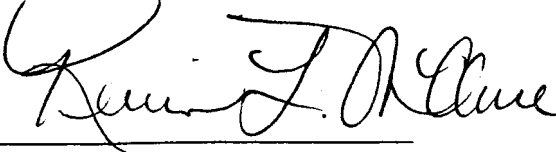
7. Other Governmental Actions Not Affected.

Respondent acknowledges and agrees that the consent to the issuance of the Order is for the purpose of resolving this OTS enforcement matter only, pertaining to Lyons FSA's failure to conduct independent testing for BSA compliance pursuant to 12 C.F.R. § 563.177(c)(2) and its failure to maintain record of its BSA Policy in accordance with 12 C.F.R. § 563.170(c)(2), and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Respondent that arise otherwise and that may be or have been brought by OTS or another governmental entity.

8. Miscellaneous.

- A. The construction and validity of this Stipulation and Consent and the Order shall be governed by the laws of the United States of America;
- B. All references to OTS in this Stipulation and Consent and the Order shall also mean any of OTS' predecessors, successors, and assigns;
- C. The section and paragraph headings in this Stipulation and Consent and the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation and Consent or the Order;
- D. The terms of this Stipulation and Consent and the Order represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters; and
- E. This Stipulation and Consent and the Order shall remain in effect until terminated, modified, or suspended in writing by OTS, acting through its Director, Regional Director, or other authorized representative.

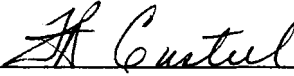
WHEREFORE, Respondent executes this Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalty, intending to be legally bound hereby.

By: 
KEVIN L. MCCLURE

Dated: 10/11/04

OFFICE OF THRIFT SUPERVISION

Accepted by:


Frederick R. Casteel
Regional Director
Midwest Region

Dated: 10-20-04